



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

AUG 10 2017

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Article Numbers: 7017 1450 0000 0133 4576 - 7017 1450 0000 0133 4569

The City of New York Department of Environmental Protection Attn: Anastasios Georgelis, P.E. Acting Deputy Commissioner Bureau of Water and Sewer Operations 59-17 Junction Blvd Flushing, NY 11373	The City of New York Law Department Attn: Carrie Noteboom, Esq. 100 Church Street New York, NY 10007 email: cnoteboo@law.nyc.gov
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Re: EPA Administrative Compliance Order CWA-02-2016-3012
City of New York and the New York City Department of Environmental Protection

Dear Ms. Noteboom and Mr. Georgelis:

The United States Environmental Protection Agency (“EPA”), Region 2, issued Administrative Order (“AO”) CWA-02-2016-3012 to the City of New York (“City”) and the New York City Department of Environmental Protection (“DEP”) on August 31, 2016. Paragraph 62(a) of the AO required that the City submit an approvable Operation and Maintenance Plan for its Collection System to EPA within 120 calendar days of the City’s receipt of the AO. The AO was received on September 2, 2016. Under a letter from EPA to the City and DEP, dated January 23, 2017, EPA granted the City and DEP a time extension until May 31, 2017 to submit the Plan to EPA. Under a cover letter, dated May 31, 2017, the City submitted DEP’s Sewer Backup Prevention and Response Plan (“Plan”) to EPA for review and approval. On June 14, 2017, EPA provided comments on the Plan which, pursuant to the AO, required the City to respond to within 30 days. The City provided its response to EPA in a letter dated July 14, 2017.

Based on the City’s July 14, 2017 letter, EPA approves the City’s Plan, for which the City began a pilot program on July 1, 2017. EPA has provided the following summary of the issues that it raised and for which the City responded:

1. Semi-Annual Meetings: EPA agrees that the DEP will provide data to EPA by January 31, 2018 (covering the period from July 1, 2017 – December 31, 2017), in advance of a semi-annual meeting in mid-February 2018. Similar data submissions for subsequent six-month time periods with associated semi-annual meetings will follow.

2. Sewer Backup Benchmark: In accordance with paragraph 62(e) of the AO, EPA expects that the DEP will develop a “Sewer Backup Benchmark,” which will establish a benchmark for the annual level of reductions of Sewer Backups. This should be done by October 31, 2020, in accordance with the schedule outlined in the Plan. EPA agrees that discussions between EPA and DEP will facilitate benchmark establishment.

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3. Implementation Schedule: While the DEP does not specifically say so, EPA understands that the three-year pilot program is a prelude to the eventual seven-year implementation schedule.

4. Fats, Oils and Grease ("FOG") Program: While DEP indicates that its assessment is that installing grease interceptors in apartment buildings is not a viable solution, EPA does still recommend that consideration be given to such an installation or to similar actions which go beyond public education, perhaps as part of the pilot program. Further discussion can be had during future semi-annual meetings.

5. Terminology: EPA agrees that DEP will update its Plan to include a definition of "recurring backup" in the Terminology Section. However, EPA disagrees with a recurring backup as a backup that occurs twice in a 3-month period. A recurring backup should be a backup that occurs at least twice in a rolling 12-month period not a 3-month period. EPA believes this definition strikes a reasonable compromise between DEP's proposed definition and the EPA AOs requirement (see Paragraph 63(f)). During the pilot program, if additional terminology is developed, that too should be added to the Terminology Section.

6. Recurring Backups: As with Item 5, above, EPA maintains that a recurring backup should be a backup that occurs at least twice in a rolling 12-month period not a 3-month period, and that this definition should be used during the pilot program.

7. TISP Report: EPA agrees that a report can be provided to EPA by DEP on the Targeted Sewer Inspection Pilot ("TSIP") by January 31, 2021.

8. Program Expansion: EPA agrees that DEP will include the community districts which are part of the pilot program in its January 31, 2021 TISP report.

9. Connection Between TSIP and SBU Response System: EPA agrees that inspection work conducted as part of the pilot program will trigger work orders and other corrective actions, as appropriate.

10. Unconfirmed SBUs: EPA agrees that DEP's focus is on confirmed SBUs and that future discussions between EPA and DEP can potentially address unconfirmed SBUs.


11. SBU Response Checklist: EPA agrees that DEP will update its SBU Response Checklist to include the same condition rating for manholes that DEP already uses for its manhole inspections.

Finally, EPA agrees that, because it will take several months for DEP to properly update the Hansen database with the new Checklist items, DEP will provide EPA with a revised Plan before the first semi-annual meeting, tentatively scheduled for mid-February 2018.

If any of the above is incorrect, please provide clarification. We remain available to discuss the aforementioned matters or any other matters that you may deem necessary to discuss.

Sincerely,

A handwritten signature in blue ink, appearing to read "Douglas McKenna".

 Douglas McKenna, Chief
Water Compliance Branch
Division of Enforcement & Compliance Assistance

cc: Joseph Theis, OECA

